

EXHIBIT 16

PATRICK PAIGE - June 27, 2019

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON

STRIKE 3 HOLDINGS, LLC, a)
Delaware corporation,)

Plaintiff,)

vs.)

JOHN DOE, subscriber)
assigned IP address)
73.225.38.130)

Defendant.)

JOHN DOE, subscriber)
assigned IP address)
73.225.38.130,)

Counterclaimant,)

vs.)

STRIKE 3 HOLDINGS, LLC,)
Counterdefendant.)

Case No. 2:17-cv-01731-TSZ

DEPOSITION OF PATRICK PAIGE

(Appearing via Skype)

Taken in behalf of the Defendant

June 27, 2019

Reported by:

Tamara Pearce, RPR, WA CCR No. 2141, OR CSR No. 90-0199

Job No. 163392

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2 anything.

3 Q. Were you ever told to file any expert reports
4 in this case?

5 A. No.

6 Q. Did you prepare any expert reports in this
7 case?

8 A. Just in front of you.

9 Q. Excuse me?

10 A. Yeah, I prepared a report that's attached to
11 the subpoena, or maybe it's not attached to the
12 subpoena. It was at one time.

13 Q. Okay. Well, why don't I back up a bit.

14 Prior to March 15th, 2019, were you ever
15 asked to prepare an expert report in this case?

16 A. Yes.

17 Q. Who asked you to prepare the expert report?

18 A. Are you talking about the -- the test of
19 the -- no, I haven't done an expert report, if you're
20 referring to the test, or are you referring to an
21 expert report in this specific case?

22 Q. I'm talking about an expert report for this
23 specific case. Were you ever asked to prepare an
24 expert report specifically for this case?

25 A. No.

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2 rate you've had for Strike 3 in all their cases?

3 A. Yes.

4 Q. Okay. And how many expert reports have you
5 prepared for Strike 3 besides this case?

6 A. I do not know offhand.

7 Q. Can you -- can you estimate?

8 A. No.

9 Q. How many cases have you worked on for Strike
10 3?

11 A. I haven't -- I have not examined anybody's
12 computer in any cases involving Strike 3.

13 Q. Okay. So is it fair to say that you have not
14 been retained on any other cases besides this case?

15 MR. BANDLOW: Objection, misstates his
16 testimony. Go ahead and answer.

17 A. Can you repeat the question?

18 BY MR. EDMONDSON:

19 Q. Well, is it fair to say that you have not
20 been retained to work on any other cases besides this
21 case?

22 A. I'm retained in general to work on all their
23 cases.

24 Q. Okay. And do you have a fee agreement that's
25 specific to Strike 3?

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2 Q. Well, the two documents I'm looking at is
3 what was served on us as your expert report. Is there
4 some other document that you drafted specific to this
5 case?

6 A. No.

7 Q. Okay. So for this case, just so that we're
8 clear, you did not sit down and write an expert report
9 specific to this case. Is that correct?

10 A. Correct.

11 Q. Okay. It's -- I just want to understand.
12 Now, then that leads to the earlier question:
13 Why didn't you sit down and write an expert report
14 specific to this case?

15 A. I don't know. I don't have an answer for
16 you.

17 Q. Okay. Nobody told you to write an expert
18 report specific for this case?

19 A. Not that I'm aware of.

20 Q. Okay. Were you ever told by anyone not to
21 write an expert report specific to this case?

22 A. No.

23 Q. Okay. Did you review Mr. Bunting's expert
24 report in this case?

25 A. No.

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2 Q. Do you know who Mr. Bunting is?

3 A. Yes.

4 Q. Okay. And have you ever had conversations
5 with Mr. Bunting?

6 A. I've known him for a long time. Yes.

7 Q. Okay. And have you talked to Mr. Bunting
8 about the Strike 3 cases?

9 A. No.

10 Q. Have you talked to Mr. Bunting about the
11 Malibu cases?

12 A. Not specific to a case. Back when I had
13 worked some Malibu cases, in examining hard drives I
14 may have consulted him on theories of spoliation and
15 whatnot.

16 Q. And why did you -- when did you talk to him
17 the spoliation?

18 A. Throughout the years.

19 Q. Well, the last five years?

20 A. Yes.

21 Q. Okay. And some of these spoliation arguments
22 made their way into court filings?

23 Well, let me back up on that.

24 Did you ever give expert reports on
25 spoliation?

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2 A. Yes.

3 Q. Okay. And did you ever mention in those
4 expert reports that you had consulted with Mr. Bunting?

5 A. No.

6 Q. Why not?

7 A. There was no need to.

8 Q. What opinions do you intend to give as an
9 expert in this case?

10 A. It's referenced in the test that I did that
11 you're -- that's Exhibit 3.

12 Q. Did you ever repeat the test in Exhibit 3 --
13 I'll call it the 2016 test. Did you ever repeat it in
14 2017?

15 A. No.

16 Q. Okay. And did you ever repeat it in 2018?

17 A. No.

18 Q. Okay. Do you need to take a break? You look
19 like you're sleepy or --

20 A. No, I'm fine.

21 Q. Okay, I just wanted to make sure.

22 MR. BANDLOW: I'll object as
23 mischaracterizing what he looks like, so.

24 MR. EDMONDSON: No, no, I'm just -- I
25 don't want to -- if someone's groggy or something, it's

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2 what the process -- or the status of the case is.

3 Q. Okay. Now, since 20 -- since 2017, Malibu
4 Media has filed a thousand -- approximately a thousand
5 cases, and is it -- it's my understanding that in all
6 those cases they have filed a declaration similar to
7 the one that you were shown as Exhibit 3. Is that your
8 understanding also?

9 A. I'm not sure.

10 Q. Okay. How much has Malibu Media paid you to
11 allow those declarations to be filed since 2017?

12 MR. BANDLOW: Objection, lacks
13 foundation, that that's what he's paid for, but you can
14 answer.

15 A. Nothing.

16 BY MR. EDMONDSON:

17 Q. Now, since 2017, how much has Strike 3 paid
18 you for -- in connection with the case -- in connection
19 with any of the cases?

20 A. Like I said, I had a \$2500 retainer, and the
21 other one's not completed yet.

22 Q. Okay. And how much have you billed on the
23 other case?

24 A. I believe it was around -- could have been
25 around four or five thousand dollars, just guessing off

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2 software testing you didn't consider to be relevant?

3 MR. BANDLOW: Objection, asked and
4 answered, harassing.

5 Go ahead and answer it again.

6 A. Same answer.

7 BY MR. EDMONDSON:

8 Q. Okay. And then looking at paragraph 10,
9 you -- in paragraph 7, you talk about the awards you
10 got as a police officer, correct?

11 A. Correct.

12 Q. Okay. And under what conditions did you
13 leave your -- leave your employment as a police
14 officer?

15 A. Well, like we discussed prior to -- in a
16 previous deposition, I've asked -- I've answered these
17 questions in a previous -- you've asked me and I've
18 answered these questions in a previous deposition with
19 you. I left the sheriff's office for -- in reference
20 to PTSD, child pornography related; a workers' comp
21 complaint was involve in it also.

22 Q. Okay. And as in the prior deposition, you --
23 you left because contraband was being used in a PO box
24 or something to that effect, correct?

25 MR. BANDLOW: He's already testified to

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2 software?

3 A. Again, we're -- you're talking about two
4 different things. You're talking about a car and
5 software. I don't really get what you're talking
6 about.

7 Q. Well, I'm not the one who created the
8 analogy, but my understanding was you agreed with
9 Mr. Bandlow's analogy that the two can be compared, but
10 by that same function, every mechanical system and
11 every electrical system has a level of reliability; is
12 that correct?

13 A. Yes.

14 Q. Okay. And what test did you do to determine
15 the reliability of the IPP system?

16 A. It's laid out in my declaration.

17 Q. That was a test on one day for one instance,
18 but what test did you construct to determine the
19 reliability over a period of time?

20 A. I've asked -- you've asked this question
21 probably three or four times already and I'd probably
22 answer the same: None.

23 Q. Okay.

24 A. I've answered that question several times
25 with you. I mean we can beat a dead horse here, but

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2 I've answered it.

3 Q. So you don't know the reliability of the IPP
4 system?

5 A. Again, I tested it twice. You have the --
6 the declarations, and again I'll answer the same
7 question. I tested on those specific dates that you
8 have and that we discussed.

9 Q. Okay.

10 A. I don't know how more plainly I can be.

11 MR. EDMONDSON: No more questions.

12

13 FURTHER EXAMINATION

14 BY MR. BANDLOW:

15 Q. Mr. Paige, you weren't asked to test -- you
16 weren't asked to determine if the particular
17 infringement of the findings in this case --

18 THE REPORTER: Can you say the last part
19 again, please, Lincoln?

20 MR. EDMONDSON: I would start over.

21 BY MR. BANDLOW:

22 Q. You weren't asked to test whether the
23 particular findings of infringement in this case had
24 been accurately found by IPP, correct?

25 A. Correct.

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2 C E R T I F I C A T E

3
4 I, Tamara Aufdermauer Pearce, Oregon CSR No.
5 90-0199, Washington CCR No. 2141, do hereby certify that
6 PATRICK PAIGE, via Skype, appeared before me at the time
7 and place mentioned in the caption herein; that the
8 witness was by me first duly sworn on oath and examined
9 upon oral interrogatories propounded by counsel; that
10 said examination, together with the testimony of said
11 witness, was taken down by me in stenotype and
12 thereafter reduced to typewriting; and that the
13 foregoing transcript, pages 1 to 83, both inclusive,
14 constitutes a full, true and accurate record of said
15 examination of and testimony given by said witness, and
16 of all other proceedings had during the taking of said
17 deposition and of the whole thereof, to the best of my
18 ability.

19 Witness my hand at Portland, Oregon, this 11th
20 day of July, 2019.

21
22 _____
23 TAMARA AUFDERMAUER PEARCE

24 OCSR No. 90-0199 Expires: 12/31/2020

25 WCCR No. 2141 Expires:12/01/2019